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JUN 25 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

VIA MESSENGER

William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Re: Notice of Ex Parte Contact  
CC Docket Nos. 96-98 and 95-185  
(Local Competition/Interconnection)

Dear Mr. Caton:

On June 23, 1997, Robert L. Hoggarth and Angela E. Giancarlo, representing the Paging and Narrowband Alliance ("PNPA") of the Personal Communications Industry Association ("PCIA"), Carl W. Northrop, representing PNPA and AirTouch Paging, and Judith St. Ledger-Roty, representing Paging Network, Inc., met with Sandra Danner, Zenji Nakazawa and Walter D. Strack of the Wireless Telecommunications Bureau. In the course of the meeting, the representatives of the paging industry advocated that paging service qualifies as "telephone exchange service" within the meaning of the Communications Act.

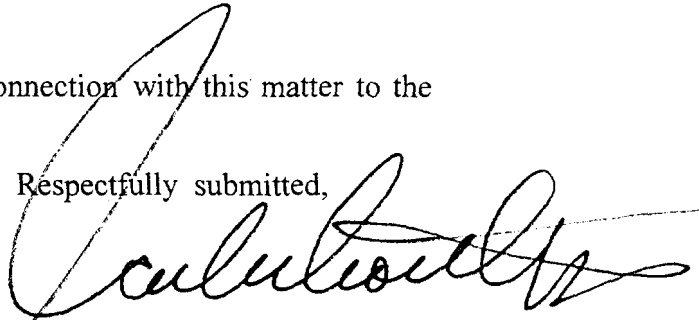
An outline of the presentation, which is consistent with the parties' formal comments in the proceeding, was distributed at the meeting. A copy is attached.

PAUL, HASTINGS, JANOFSKY & WALKER LLP

Mr. William F. Caton  
June 25, 1997  
Page 2

Kindly refer questions in connection with this matter to the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Carl W. Northrop', written over a large, loopy flourish that extends from the left side of the signature.

Carl W. Northrop  
of PAUL, HASTINGS, JANOFSKY & WALKER LLP

cc: Rob Hoggarth  
Angela Giancarlo  
Judith St. Ledger-Roty  
Sandra Danner  
Zenji Nakazawa  
Walter Strack

Paging as Telephone Exchange Service

Presentation of the  
Personal Communications  
Industry Association

500 Montgomery Street  
Suite 700  
Alexandria, VA 22314-1561  
(703) 739-0300

## THE CLASSIFICATION OF PAGING AS "TELEPHONE EXCHANGE SERVICE" MAY HAVE IMPORTANT RAMIFICATIONS:

- on the obligation of LECs to provide Dialing Parity to paging service providers pursuant to Section 251(b)(3) of the Act;
- on the obligation of incumbent LECs to provide paging carriers with reasonable, non-discriminatory interconnection at any technically feasible point that is of equal quality to that provided by the ILEC to itself or others pursuant to Section 251(c)(2) of the Act;
- on the rights of paging carriers to most favored nation treatment under Section 252(i) of the Act.

The above protections may be preserved through the application of Sections 201 and 202 of the Act, but there is no reason to conclude that paging companies were intended to be denied the direct protections of Sections 251 and 252 of the Act accorded to "Telephone Exchange Service" providers.

Parity is essential to the ability of paging carriers to compete on a level playing field with PCS and other telecommunications service providers who are offering paging service in addition to two-way services and enjoying the benefits of their Telephone Exchange Service classification.

THERE ARE MULTIPLE GROUNDS TO SUPPORT THE LEGAL CONCLUSION THAT  
PAGING SERVICE IS TELEPHONE EXCHANGE SERVICE

- Prior FCC Rulings Classified Paging Service as Telephone Exchange Service
- Prior Court Rulings Classified Paging Service as Telephone Exchange Service
- The Statutory Definition of Telephone Exchange Service Encompasses Paging Service
- The Interconnection Order itself recognized that the definition of Telephone Exchange Service could encompass additional CMRS providers.

## PRIOR FCC AND COURT RULINGS INDICATE THAT PAGING SERVICE IS TELEPHONE EXCHANGE SERVICE

- A 1965 Public Notice regarding RCC tariffs provided that radio common carrier paging and mobile telephone service are "exchange service within the meaning of Section 221(b)" because it was a "local service furnished through interconnection with a landline telephone company."
- The 1975 Tariff Order reiterated the RCC tariff policy and confirmed classification of paging services as exchange services.
- In the 1987 Interconnection Order, the Commission found that telephone companies have an obligation to provide interconnection to radio common carriers because of their status as "exchange co-carriers."
- The 1986 Preemption Decision, which preempted state regulation of radio common carrier services, confirmed the status of RCC service as "exchange communications."
- In a 1983 "MFJ Interpretation," the Court found that one-way paging services are "exchange telecommunications services" within the meaning of the MFJ, which is the basis for the fact that paging assets went to the RBOCs not to AT&T.

## PAGING SERVICE FALLS WITHIN THE STATUTORY DEFINITION OF TELEPHONE EXCHANGE SERVICE

- Definition of Telephone Exchange Service contained in Communications Act prior to 1996 was "service within a telephone exchange or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge."
  - Paging service was found to be exchange service under the pre-1996 definition.
- The definition of telephone exchange service was broadened in 1996 to include "comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service" (emphasis supplied).
- Paging providers also fit within the post-1996 definition of Telephone Exchange Service.
  - Paging providers enable subscribers of other telecommunications carriers to communicate with subscribers in the paging carrier's "local area," defined by the FCC as MTAs, by using a system of switches, RF transport mechanism and base stations to receive, translate, switch, route and deliver traffic.
  - Paging service is "intercommunicating" -- it provides for a reciprocal communication between the calling and called party (the called party receives the page, and the calling party receives a communication indicating the page is being sent. WEBSTER's New World Dictionary defines "intercommunicate" as "to communicate with or to each other or one another." Real-time, interactive, two-way communications is not a prerequisite.